

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LYNN SCUDDER, acting under power of
attorney given by Ruby Jo Scudder,

Plaintiff,

v.

MCLP ASSET COMPANY, INC.,

Defendant.

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1:23-CV-228-RP

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Dustin Howell concerning Defendant MCLP Asset Company's Motion to Dismiss, (Dkt. 3). (R. & R., Dkt. 10). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Howell issued his report and recommendation on July 5, 2023. (*Id.*). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 10), is **ADOPTED**. Defendant's motion to dismiss, (Dkt. 3), is **GRANTED**.

Plaintiff's claims for breach of contract on the basis of HUD regulations, negligence, and violation of the Texas Property Code are **DISMISSED WITH PREJUDICE**. Plaintiff's claims for breach of contract on the basis of the Deed of Trust are **DISMISSED WITHOUT PREJUDICE**.

Plaintiff's request in the alternative for leave to amend, (Dkt. 8), is **GRANTED** as to the breach of contract claim on the basis of breach of the Deed of Trust and **DENIED** as to all other claims.

Plaintiff shall file an amended complaint, if at all, on or before August 21, 2023.

SIGNED on July 20, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE